

IN THE UNITED STATES PATENT OFFICE BEFORE THE BOARD OF APPEALS

Applicant: Donald P. Bushby

Filed on April 2, 2004

Serial Number 10/817,172

For: SYSTEM FOR TREATMENT OF PLANTAR FASCIITIS

Technology Center 3772

Examiner: T. Patel

Amended Brief under MPEP 1205.03 (B)

The above identified appeal brief is hereby amended pursuant to the Notice of Non-compliant Appeal Brief mailed out on January 4, 2010 to correct the Summary of Claimed Subject Matter to add the page and line numbers to the claims 56 and 60. The corrected Summary in its entirety is hereby submitted on pages 2 -4.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

The claims relate generally to an orthotic device (400) that engages the outer skin tissue on the sole of a foot to prevent excessive tensile stress on the plantar fascia. The orthotic device (400) uses a thin flexible stretch-resistant sole member (410) with a strong adhesive layer (410) so that when the sole member is adhesively applied directly onto the outer skin tissue of the sole, the outer skin tissue is restricted from extending and stretching. This prevents excessive tensile stress on the plantar fascia. (See Paragraphs 0029, 0058)

A) Independent Claim 44

Independent Claim 44 requires an orthotic foot support device (400) that has a thin flexible stretch-resistant sole member (410) of uniform thickness (See Paragraphs 0025, 0029, 0058 – 0060, 0069). This sole member has a shape less than the entire outline of the wearer's foot (See Fig. 4). An adhesive layer (411) has sufficient strength to maintain the stretch-resistant sole member to the outer skin tissue of the foot sole so to restrict extension and stretching of the outer skin tissue. The combination of the stretch-resistant sole member and the adhesive cause the tension forces applied to the plantar fascia of the foot to be shared with the outer skin tissue, the adhesive layer and the stretch-resistant layer to prevent excessive tensile stresses on the plantar fascia (See Paragraphs 0029, 0058).

B) Independent Claim 56

Independent Claim 56 is similar to Claim 44 requiring an orthotic foot support device (400) that has a thin flexible stretch-resistant sole member (410) of uniform thickness (See Paragraphs 0025, 0029, 0058 – 0060, 0069). This sole member has a shape less than the entire outline of the wearer's foot (See Fig. 4). An adhesive layer (411) has sufficient strength to maintain the stretch-resistant sole member to the outer skin tissue of the foot sole so to restrict extension and stretching of the outer skin tissue. The combination of the stretch-resistant sole member and the adhesive cause the tension forces applied to the plantar fascia of the foot to be shared with the outer skin tissue, the adhesive layer and the stretch-resistant layer to prevent excessive tensile stresses on the plantar fascia (See Paragraphs 0029, 0058). Claim 56 further includes the added limitations of a thin flexible strap or tab (420) which is connected to the sole

member and extends over the top of the foot to adhesively engage the sides and top of the foot along with the sole member (See Figures 3 and 4; Paragraphs 0025, 0026, 0032, 0033, 0034, 0035, 0055, 0056). This additional strap and adhesive add additional support for securing the stretch-resistant sole member to the outer skin tissue and for restricting extension and stretching of the outer skin tissue. (See Paragraphs 0032, 0034, 0055, 0056)

C) Independent Claim 60

Independent Claim 60 is similar to Claim 44 requiring an orthotic foot support device (400) that has a thin flexible stretch-resistant sole member (410) of uniform thickness (See Paragraphs 0025, 0029, 0058 – 0060, 0069). This sole member has a shape less than the entire outline of the wearer's foot (See Fig. 4). An adhesive layer (411) has sufficient strength to maintain the stretch-resistant sole member to the outer skin tissue of the foot sole so to restrict extension and stretching of the outer skin tissue. The combination of the stretch-resistant sole member and the adhesive cause the tension forces applied to the plantar fascia of the foot to be shared with the outer skin tissue, the adhesive layer and the stretch-resistant layer to prevent excessive tensile stresses on the plantar fascia (See Paragraphs 0029, 0058). Claim 60 further includes added limitations of a thin flexible strap or tab (420) which is connected to the sole member and extends over the top of the foot to adhesively engage the sides and top of the foot along with the sole member (See Figures 3 and 4; Paragraphs 0025, 0026, 0032, 0033, 0034, 0035, 0055, 0056). This additional strap and adhesive add additional support for securing the stretch-resistant sole member to the outer skin tissue and for restricting extension and stretching of the outer skin tissue. (See Paragraphs 0032, 0034, 0055, 0056) Protective covers 416 (Paragraph 0032) cover the adhesive on the sole member and the arch straps until they are secured to the foot.

D) Independent Claim 62

Independent Claim 62 is directed to a method for restricting extension and stretching of the plantar fascia by providing a thin flexible device (400) have a stretch-resistant sole member (410) that excludes the region under the four small toes (See Figures 3 and 4) with a strong adhesive layer (411) to secure the device to the sole of the foot so that the combination of the strong adhesive layer and the stretch-resistant sole member will cause the tension forces applied

to the plantar fascia are shared with the device, the outer skin tissue and the adhesive layer to prevent excessive tensile stress on the plantar fascia (See Paragraphs 0029, 0058).

E) Independent Claim 70

Independent Claim 70 is directed broadly to an orthotic foot support device (400) for reducing stress on the plantar fascia of a wearer's foot by the combination of a stretch-resistant sole support (410) and an adhesive layer (411) that secures the stretch-resistant sole support to the sole of a foot so that the sole support absorbs the tensile stress preventing extension and stretching of tissue to prevent excessive tensile stress in the plantar fascia. (See Paragraphs 0029, 0058)

F) Independent Claim 75

Independent Claim 75 is similar to claim 70 directed broadly to an orthotic foot support device (400) for reducing stress on the plantar fascia of a wearer's foot by the combination of a stretch-resistant sole support (410) and an adhesive layer (411) that secures the stretch-resistant sole support to the sole of a foot so that the sole support absorbs the tensile stress preventing extension and stretching of tissue to prevent excessive tensile stress in the plantar fascia. (See Paragraphs 0029, 0058) Claim 75 includes the added limitations of the sole member covering only a portion of the foot and of the elimination of a resilient cushion layer (See Paragraph 0069, discussion of very thin layer) and the added limitation of the sole support having a ratio of elongation to tensile strength that is less than .9 (See Paragraph 0059).

G) Independent Claim 78

Independent Claim 78 is directed to a plantar fascia support device that has a sole support that only partly covers the sole (See Figures 3 and 4) and a ratio of elongation to tensile strength that is less than 0.9 (See Paragraph 0059) along with an adhesive layer (411) to secure the sole support to the outer skin of a sole (See Paragraphs 0029, 0058).

Remarks

The above identified appeal brief is amended pursuant to the Notice of Non-compliant Appeal Brief mailed out on January 4, 2010 to correct the Summary of Claimed Subject Matter to add the page and line numbers to the claims 56 and 60.

Please contact the undersigned if any additional information or changes are necessary.

Respectfully submitted,

/glennlwebb32668

Glenn L. Webb
PO 3788
Durango, CO 81301
(303) 816-4893